

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO, DIVISION

UNITED STATES OF AMERICA,

-vs-

STEVEN LYNN MOUTON

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CRIMINAL NO.

SA-08-CR-00301-WRF

DEFENDANT'S MOTION FOR CONTINUANCE
OF THE TRIAL SETTING OF JULY 14, 2008

TO THE HONORABLE JUDGE OF SAID COURT;

Now comes the Defendant, **STEVEN LYNN MOUTON**, by and thru his Attorney of Record, **KARL A. BASILE**, and files this his Motion for Continuance of Jury Trial Setting of July 14, 2008 and in support of said would show the Court the following:

I.

This case is set for it's first Jury Trial setting on July 14, 2008.

II.

Defendant would show this Court state that he charged with Production of Child Pornography/Sexual Exploitation of a child under Title 18, U.S. code Section 22512a and 2252(a)(4)(B) and is being detained by the U.S. Marshal at the Wackenhut/South Texas Parole Violators Facility.

III.

Defendant would show to this Court that he is not adequately prepared for the scheduled Jury trial and that he needs more time to finish his investigation of the facts surrounding the allegations and to prepare for any possible trial in this matter. This matter involves the alleged use of a computer to prepare, store, depict and possibly transfer visual depictions of minor in sexual conduct and the allegation of employing, using, inducing or persuading a minor to engage in sexual conduct.

While the Defendant has reviewed the initial discovery that was supplied by the United States he has not has sufficient time to meet with his attorney and review said evidence in detail and prepare or decide what further investigation may need to be conducted to prepare any defenses he may have to the charges and to knowingly conduct any plea negotiations with the Government.

Defendant would show this Court that since the early part of May 2008 and continuing into early June 2008 his attorney was involved in four criminal/juvenile Jury trials:

- 1) May 6, 2008; **Cause No. 2007-CR-4139,4140 The State of Texas vs Jimmy Robinson** filed in the 187th Judicial District Court where the charge was delivery of a controlled substance 4-200 grams a first degree felony and delivery of a controlled substance 1-4 gram a second degree felony(possible time of 15 years to life/99 years),
- 2) May 13, 2008; **Cause No. 2008-JUV-00008 In the Matter of Robert Franco** filed in the 386th Judicial District Court sitting as a Juvenile Court where the charge was Aggravated Sexual Assault filed as a Determinate Sentencing charge(possible 40 years in Texas Youth Commission and then the Texas Department of Corrections),
- 3) May 20, 2008; **Cause No. 2006-CR-6336B,6337B The State of Texas vs. Sonia Martinez** filed in the 399th Judicial District Court where the charges were delivery of controlled substance 1-4 grams in each count with each a second degree felony(possible time of 2-20 years) and
- 4) June 3, 2008; **Cause No. 2008-JUV-00482 filed in the 289th Judicial District Court** sitting as a Juvenile Court where the charges were Assault on a Public Servant(Peace Officer) a felony and Interference with Public Official(Duties) a misdemeanor(total possible commitment to the Texas Youth Commission).

Defendant would state that since his attorney finished the above four jury trials he has been diligently working to catch up on all of his cases, but was unable to sufficiently investigate and to adequately prepare in this matter, as he had numerous other cases that were reset for court appearances and hearings while he was in the above listed trials that also required attention.

IV.

Defendant would further show this Court that the his attorney is scheduled pursuant to a vacation letter filed with the court to be out of the state of Texas with his daughter(whom is representing the Southwest Region(Texas, New Mexico and Oklahoma) for her age group at the National Baton Twirler's Association National Tournament at the University of Notre Dame the week of July 20-28, 2008.

V.

Defendant would state that the time requested is very important to any possible defense that the Defendant may have to the allegations contained in the Indictment, he would state that without the time requested, the Defendant will not be adequately prepared for trial and would be denied effective assistance of counsel as provided for in the U.S. Constitution VI Amendment, and as required under Strickland v. U.S. 466 U.S. 688(1984), Defendant would further state that the delay in this matter requested is necessary to properly prepare for the trial and that the Defendant has been diligent in preparing any defense he has to the charges.

VI.

Defendant would request that the Court continue the Jury Trial to allow the Defendant time to finish his investigation and preparation for Jury Trial so that he and his attorney will be adequately prepared and he will receive effective assistance of Counsel.

The Defendant would also state the delay requested is a reasonable period necessary to allow the Defendant to finish his investigation and review of this case and to finish and preparation for jury trial and the Defendant further requests that the Court find that the time requested be excluded from the time with in the Defendant must be brought to trial and that the ends of justice served by granting this Motion outweighs the best interest of the public and the defendant for a speedy trial under the Speedy Trial Act, Title 18, United States Code Section, 3161(h)(8)(A). Further the Defendant request that the Court find that good cause exists for extending the plea bargain deadline, pretrial motions and jury trial pursuant to Federal Rules of Criminal Procedure 11(e)(5) and United States of America vs. Ellis, 547 F. 2d 863(5th Cir. 1977).

WHEREFORE PREMISES CONSIDERED, the Defendant requests that for the reasons stated in this Motion that the Court reset the Jury Trial in this matter.

Respectfully submitted,

\s\ Karl A. Basile

KARL A. BASILE

Greatview Building, Suite 100

8207 Callaghan Road

San Antonio Texas 78230

(210)525-8030 VOICE

(210)308-9854 FAX

Tx. St. Bar # 01869700

ATTORNEY FOR THE DEFENDANT

STEVEN LYNN MOUTON

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing Motion For Continuance, has been served by the Western District of Texas CM/ECF System to Ms. Tracy Braun, Asst U. S. Attorney, 601 N. W. Loop 410, Suite 600, San Antonio Texas, on this the 11th day of July, 2008.

\s\ Karl A. Basile

KARL A. BASILE

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ORDER GRANTING CONTINUANCE

On this day came on to be considered Defendant, Steven Lynn Mouton's Motion for Continuance of Jury Trial setting of July 14, 2008. Upon consideration of the Motion, the Court is of the opinion that the motion should be granted.

It is hereby ORDERED that Defendant's Motion for Continuance of Jury Trial setting of July 14, 2008 is **GRANTED** and the Jury Trial scheduled in this matter for July 14, 2008, shall be reset per further Order of this Court.

The Court further finds that the time period between the Jury setting of September 17, 2007 and the new Jury trial date set by this court is a reasonable period of delay to allow the defendant to adequately finish preparation of this matter for trial and that said time shall be excluded from the time with in the defendant must be brought to trial and that the ends of justice by taking this action outweighs the best interest of the public and the defendant in a speedy trial under the Speedy Trial Act pursuant to Title 18, United States Code Section 316(n).

Signed this _____ day of July, 2008.

ROYAL FERGUSON
UNITED STATES DISTRICT JUDGE